IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

Crl.MC.No. 1817 of 2007()

CC.616/2000 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM

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PETITIONER: ACCUSED

GISON MATHEW, CHERUVATHOOR HOUSE,
HOUSE NO.1/84, KUNNAMKULAM VILLAGE,
KUNNAMKULAM TOWN, TALAPPILLY TALUK.

BY ADV. SRI.RAJIT
SRI.RANJIT BABU

RESPONDENTS: COUNTER-PETITIONER/COMPLAINANT

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1. M/S.DESAI BROTHERS, REGISTERED FIRM,
B.P.O. LING ROAD, ERNAKULAM, COCHIN-682 031.

2. STATE OF KERALA, REP.BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1817 of 2007

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Dated this the 6th day of June, 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the N.I. Act. The verdict of guilty, conviction and sentence have now become final with the order passed by this Court in revision. The petitioner faces a sentence of imprisonment till rising of court. He is also directed to pay the actual cheque amount as compensation. Default sentence has also been prescribed. The petitioner was directed to appear before the learned Magistrate on 20.1.2006 to receive the sentence. The petitioner did not appear before the learned Magistrate. The petitioner could not raise the amount of compensation to be paid by then. That is why he could not earlier appear before the learned Magistrate. Now the entire amount has been paid to the complainant. The petitioner now wants to appear before the learned Magistrate to serve the substantive sentence of imprisonment till rising of Court. The petitioner has come to this Court with a prayer that the time fixed for appearance may be extended.

2. I find absolutely no reason to grant any extension of time. If the petitioner appears and satisfies the court that the compensation amount has been paid and discharged, there can be no question of the petitioner being sent to the prison to undergo the default sentence. As soon as the amount is paid, the default sentence must come to an end. Therefore, the apprehension of the petitioner that even after the compensation amount is paid, he may be sent to prison to undergo the default sentence is without any basis. The decision in **Girish** v. **Muthoot Capital Services (P) Ltd.** (2007 (1) KLT 16) has made the position crystal clear removing the last trace of doubt, if any, on the subject.

3. I do not in these circumstances find any necessity or justification to issue any direction in this Crl.M.C.

4. This Crl.M.C. is accordingly dismissed with the above observations.

(R. BASANT)
Judge

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